

Senate Daily Reader

Wednesday, February 10, 1999

[illegible]

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

490C0116

HOUSE HEALTH AND HUMAN SERVICES COMMITTEE ENGROSSED NO. **HB1009** - 2/3/99

Introduced by: Representatives Hunt, Cerny, Fiegen, Hagen, and Peterson and Senators
Lawler, Brosz, and Kloucek at the request of the Interim Health and Human
Services Committee

1 FOR AN ACT ENTITLED, An Act to require a managed care plan to have a medical director
2 or director.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Terms used in this Act mean:

- 5 (1) "Managed care contractor," a person who establishes, operates, or maintains a
6 network of participating providers; or contracts with an insurance company, a hospital
7 or medical service plan, an employer, an employee organization, or any other entity
8 providing coverage for health care services to operate a managed care plan;
- 9 (2) "Managed care entity," a licensed insurance company, hospital or medical service
10 plan, health maintenance organization, an employer or employee organization, or a
11 managed care contractor that operates a managed care plan;
- 12 (3) "Managed care plan," a plan operated by a managed care entity that provides for the
13 financing or delivery of health care services, or both, to persons enrolled in the plan
14 through any of the following:

- 1 (a) Arrangements with selected providers to furnish health care services;
- 2 (b) Explicit standards for the selection of participating providers; or
- 3 (c) Financial incentives for persons enrolled in the plan to use the participating
- 4 providers and procedures provided for by the plan.

5 Section 2. A managed care plan shall appoint a medical director who has an unrestricted
6 license to practice medicine. However, a managed care plan that specializes in a specific healing
7 art shall appoint a director, who has an unrestricted license to practice in that healing art. The
8 director is responsible for oversight of treatment policies, protocols, quality assurance activities,
9 and utilization management decisions of the managed care plan.

10 Section 3. Nothing in this Act applies to dental only, vision only, accident only, school
11 accident, travel, or specified disease plans or plans that primarily provide a fixed daily, fixed
12 occurrence, or fixed per procedure benefit without regard to expenses incurred.

1 **BILL HISTORY**

2 1/12/99 First read in House and referred to Health and Human Services. H.J. 33

3 1/27/99 Scheduled for Committee hearing on this date.

4 1/27/99 Scheduled for Committee hearing on this date.

5 1/29/99 Scheduled for Committee hearing on this date.

6 1/29/99 Health and Human Services Do Pass Amended, Passed, AYES 12, NAYS 0. H.J. 306

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

400C0215

HOUSE COMMERCE COMMITTEE ENGROSSED NO. **HB1045** - 1/26/99

Introduced by: The Committee on Commerce at the request of the Department of Commerce
and Regulation

1 FOR AN ACT ENTITLED, An Act to revise certain provisions concerning the confidentiality
2 of bank examinations.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 51A-2-35 be amended to read as follows:

5 51A-2-35. The records of the division ~~shall be~~ are open to public inspection; ~~provided,~~
6 ~~however.~~ However:

7 (1) The director may withhold from public inspection any record, including any
8 correspondence, for so long as ~~he deems~~ deemed necessary for the protection of a
9 person or bank or to be in the public interest; ~~and~~

10 (2) The director shall withhold from public inspection any record required to be
11 confidential pursuant to federal statutes or rules or regulations of the board of
12 governors of the federal reserve system or the Federal Deposit Insurance Corporation;
13 and

14 (3) Reports of examination shall remain the property of the division and shall be furnished
15 to the bank for its confidential use. Under no circumstances may the report or any
16 supporting documentation be disclosed to anyone, other than directors and officers

1 of the bank or anyone who is acting in a fiduciary capacity for the bank, without
2 written permission from the director.

3 Any record of the division shall be made available upon order of a court of competent
4 jurisdiction ~~when~~ if cause is shown.

1 **BILL HISTORY**

2 1/12/99 First read in House and referred to Commerce. H.J. 40

3 1/19/99 Scheduled for Committee hearing on this date.

4 1/19/99 Commerce Deferred to another day.

5 1/26/99 Scheduled for Committee hearing on this date.

6 1/26/99 Commerce Do Pass Amended, Passed, AYES 12, NAYS 0. H.J. 188

7 1/26/99 Commerce Place on Consent Calendar.

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

647C0525

HOUSE AGRICULTURE AND NATURAL RESOURCES COMMITTEE ENGROSSED NO. **HCR1003 - 1/29/99**

Introduced by: Representatives Weber, Cerny, Chicoine, Crisp, Engbrecht, Frysliie, Garnos, Hagen, Haley, Hanson, Jaspers, Kazmerzak, Klaudt, Koehn, Kooistra, Lintz, Lockner, Lucas, McIntyre, Putnam, Sutton (Duane), and Waltman and Senators Lange, Dennert, Flowers, Halverson, Hutmacher, Kleven, Kloucek, Lawler, Moore, Symens, and Vitter

1 A CONCURRENT RESOLUTION, Recognizing an agriculture crisis day.

2 WHEREAS, "Save Rural Main Street" is a grassroots program made up of rural main street
3 businesses that began in Ziebach and Dewey counties of South Dakota and is rapidly gaining
4 statewide support; and

5 WHEREAS, agriculture is the mainstay industry of the local economy and it is recognized
6 that there is a serious crisis affecting all agriculture products; and

7 WHEREAS, continued low agriculture prices will force farm and ranch liquidations and this
8 will in turn affect the local economies of small rural towns in many ways; and

9 WHEREAS, small rural South Dakota towns cannot afford to lose agricultural-based
10 families; and

11 WHEREAS, the agricultural crisis that is crippling the small town economies must be dealt
12 with immediately by state and federal government leaders; and

13 WHEREAS, the businesses represented by the membership of the "Save Rural Main Street"

1 project realize that losses of farm and ranch families from our rural areas will create a domino
2 effect that will eventually lead to the loss of schools, churches, and main street businesses:

3 NOW, THEREFORE, BE IT RESOLVED, by the House of Representatives of the Seventy-
4 fourth Legislature of the State of South Dakota, the Senate concurring therein, that February 17,
5 1999 be recognized as an agriculture crisis day in South Dakota.

6 BE IT FURTHER RESOLVED, that the South Dakota Department of Agriculture observe
7 this day by sponsoring a one day hearing in Pierre, South Dakota to gather testimony from our
8 agriculture producers, small town mayors or council members, and business people on their
9 plight to survive.

1 **BILL HISTORY**

2 1/28/99 Scheduled for Committee hearing on this date.

3 1/28/99 Agriculture and Natural Resources Adopt Resolution as Amended, AYES 13, NAYS

4 0. H.J. 234

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

400C0535

SENATE COMMERCE COMMITTEE

ENGROSSED NO. **SB75** - 1/30/99

Introduced by: Senators Daugaard, Halverson, Olson, and Shoener and Representatives Roe, Fischer-Clemens, Michels, and Peterson

1 FOR AN ACT ENTITLED, An Act to establish an insurance fraud unit within the Division of
2 Insurance to investigate and prosecute insurance fraud.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Terms used in this Act mean:

5 (1) "Insurer," in addition to those persons defined under subdivision 58-1-2(12), any
6 person or entity transacting insurance with or without a certificate of authority issued
7 by the director of insurance. The term also means health maintenance organizations,
8 legal service insurance corporations, prepaid limited health service organizations,
9 dental and other similar health service plans, and, notwithstanding subdivision 58-1-
10 3(1), fraternal benefit societies;

11 (2) "Statement," includes any application for insurance, notice, statement, proof of loss,
12 denial, bill of lading, receipt for payment, invoice, account, estimate of property
13 damages, bill for services, diagnosis, prescription, hospital or medical records, X-rays,
14 test results, or other evidence of loss, injury, or expense, whether oral, written, or
15 computer-generated; and

16 (3) "Designee," the Department of Commerce and Regulation, the attorney general, any

1 state's attorney, any duly constituted criminal investigative department or agency of
2 the State of South Dakota or of the United States, any county or municipal law
3 enforcement agency having investigative jurisdiction, and any other person whose
4 services are contracted for by the insurance fraud prevention unit.

5 Section 2. For purposes of this Act, a person commits a fraudulent insurance act if the
6 person:

- 7 (1) Knowingly and with intent to defraud or deceive issues or possesses fake or
8 counterfeit insurance policies, certificates of insurance, insurance identification cards,
9 or insurance binders;
- 10 (2) Is engaged in the business of insurance, whether authorized or unauthorized, receives
11 money for the purpose of purchasing insurance and converts the money to the
12 person's own benefit or for a purpose not intended or authorized by an insured or
13 prospective insured;
- 14 (3) Willfully embezzles, abstracts, steals, misappropriates, or converts money, funds,
15 premiums, credits, or other property of an insurer or person engaged in the business
16 of insurance or of an insured or prospective insured;
- 17 (4) Knowingly and with intent to defraud or deceive makes any false entry of a material
18 fact in or pertaining to any document or statement filed with or required by the
19 Division of Insurance;
- 20 (5) Knowingly and with intent to defraud or deceive removes, conceals, alters, diverts,
21 or destroys assets or records of an insurer or other person engaged in the business of
22 insurance or attempts to remove, conceal, alter, divert, or destroy assets or records
23 of an insurer or other person engaged in the business of insurance;
- 24 (6) Knowingly and with intent to defraud or deceive presents, causes to be presented, or
25 prepares with knowledge or belief that it will be presented to or by an insurer, or any

agent of an insurer, any statement as part of a claim, in support of a claim, or in denial of a claim for payment or other benefit pursuant to an insurance policy knowing that the statement contains any false, incomplete, or misleading information concerning any fact or thing material to a claim;

(7) Assists, abets, solicits, or conspires with another to prepare or make any statement that is intended to be presented to or by an insurer or person in connection with or in support of any claim for payment or other benefit, or denial, pursuant to an insurance policy knowing that the statement contains any false, incomplete, or misleading information concerning any fact or thing material to the claim; or

(8) Makes any false or fraudulent representations as to the death or disability of a policy or certificate holder in any statement or certificate for the purpose of fraudulently obtaining money or benefit from an insurer.

Any violation of this section for an amount of five hundred dollars or less is a Class 1 misdemeanor. Any violation of this section for an amount in excess of five hundred dollars is a Class 4 felony. Any other violation of this section is a Class 1 misdemeanor.

Section 3. The insurance fraud prevention unit through its investigator or attorney may do the following:

(1) The investigator or attorney may initiate and conduct independent investigations if the unit has cause to believe that a fraudulent insurance act has been or may be committed;

(2) The investigator or attorney may review reports or complaints of alleged fraudulent insurance acts to determine whether such reports require further investigation and to conduct such investigation;

(3) The investigator or attorney may undertake independent studies to determine the extent of fraudulent insurance acts;

(4) The investigator or attorney may promote awareness of insurance fraud through educational seminars and other education programs for the insurance industry and the general public;

(5) The attorney, subject to applicable criminal or civil law and procedure, may prosecute fraudulent insurance acts on behalf of the state through criminal and civil proceedings; and

(6) The investigator or attorney may cooperate with federal, state, and local law enforcement, prosecuting attorneys, and the attorney general in the investigation and prosecution of fraudulent insurance acts.

Section 4. In order to investigate and prosecute activities involving fraudulent insurance acts, the director of insurance shall employ a sufficient staff to be known as the insurance fraud prevention unit which shall include a minimum of one clerical employee, one investigator, and one attorney.

Section 5. The insurance fraud prevention unit may prosecute fraudulent insurance acts through criminal or civil proceedings. The attorney general may appoint the insurance fraud prevention unit attorney as an assistant attorney general for purposes of prosecuting cases of fraudulent insurance acts. The unit attorney may have all the powers attributed to the insurance fraud prevention unit in section 3 of this Act. Prosecution may not proceed unless the director and the attorney general are consulted and give their written approval. The unit attorney, after consultation with and approval by the director and the attorney general, may refer or request assistance from other persons delineated in subdivision (3) of section 1 of this Act for the prosecution of fraudulent acts. All costs associated with the prosecution of fraudulent insurance acts, including those incurred by designees assisting or acting on behalf of the insurance fraud prevention unit, may be paid by the insurance fraud prevention unit fund.

Section 6. The insurance fraud prevention unit investigators may investigate violations of this

1 Act. The unit investigators shall be qualified pursuant to the requirements of §§ 23-3-41, 23-3-
2 42, and 23-3-44 and have all the powers and authority of law enforcement officers while
3 performing duties pursuant to this Act. The insurance fraud prevention unit, after consultation
4 with and written approval by the director and the attorney general, may refer or request
5 assistance from persons delineated in subdivision (3) of section 1 of this Act for the investigation
6 of fraudulent insurance acts. All costs associated with the investigation of fraudulent insurance
7 acts, including those incurred by designees assisting or acting on behalf of the insurance fraud
8 prevention unit, may be paid by the insurance fraud prevention unit fund.

9 Section 7. If the insurance fraud prevention unit or its designees initiate civil action against
10 any person and that person is found by a court of competent jurisdiction to have committed a
11 fraudulent insurance act as set forth in section 2 of this Act, that person is subject to a civil
12 penalty not to exceed five thousand dollars for the first violation, ten thousand dollars for the
13 second violation, and fifteen thousand dollars for each subsequent violation. Civil penalties paid
14 under this section shall be deposited in the insurance fraud prevention unit fund. An action under
15 this section may be in lieu of criminal prosecution under the laws of this state and may not be
16 commenced until after consultation with and written approval by the director and the attorney
17 general.

18 Section 8. Any costs associated with the administration and operation of the insurance fraud
19 prevention unit, including salaries and the costs set forth in sections 5 and 6 of this Act, shall be
20 paid from the insurance fraud prevention unit fund. All disbursements from the insurance fraud
21 prevention unit fund shall be continuously appropriated.

22 Section 9. Costs and expenses incurred in any investigation or other action arising out of a
23 violation under this Act may be sought in any judgment or court decree. Any recovered costs,
24 except civil or criminal penalties, shall be deposited by the unit or its designees in the insurance
25 fraud prevention unit fund. The court may make such additional orders or judgments as may be

1 necessary to restore to any person in interest any compensation which may have been acquired
2 by means of any act prohibited in section 2 of this Act.

3 Section 10. Notwithstanding any other section of this Act, the unit or its designees, and a
4 person alleged to have committed a fraudulent insurance act as set forth in section 2, are not
5 prohibited from entering into a written agreement upon commencement of a civil action in which
6 the person alleged to have committed a fraudulent insurance act does not admit or deny the
7 charges but consents to payment of the civil penalty.

8 Section 11. For purposes of investigating and prosecuting insurance fraud, the insurance
9 fraud prevention unit is subject to the provisions of this Act and the procedures set forth in Title
10 15 or Title 23A if applicable and if not in conflict with this Act.

11 Section 12. All investigative records and files of the insurance fraud prevention unit are
12 confidential. The investigative records of the insurance fraud prevention unit may not be released
13 except pursuant to a court order. An investigator is not subject to subpoena in civil actions
14 concerning any matter of which the investigator has knowledge regarding a pending insurance
15 fraud investigation by the division, unless so ordered by the court.

16 Section 13. Any person acting in good faith is immune from civil liability for filing a report
17 with or for furnishing any information relating to suspected, anticipated, or completed fraudulent
18 insurance acts to:

19 (1) The Department of Commerce and Regulation and the director of insurance;

20 (2) Any governmental agency established to detect and prevent fraud;

21 (3) Law enforcement officials;

22 (4) The Department of Labor;

23 (5) Any insurer or insurance agent;

24 (6) The National Association of Insurance Commissioners; and

25 (7) Any nonprofit organization established to detect and prevent insurance fraud, if the

1 organization is approved by the director pursuant to rules promulgated by the director
2 under chapter 1-26 setting forth the standards, criteria, and procedures necessary to
3 obtain approval.

4 If a civil action is commenced against a person for damages related to the filing of a report
5 or the furnishing of information under this section and the court determines that the person acted
6 in good faith in filing the report or furnishing the information, the person filing the report or
7 furnishing the information may recover costs or disbursements under chapter 15-17, including
8 reasonable attorney's fees.

9 If the trier of fact concludes that the person filing the report or furnishing the information was
10 not acting in good faith, the person filing a civil action may recover costs or disbursements under
11 chapter 15-17, including reasonable attorney's fees.

12 This section does not abrogate or modify in any way any common law or statutory privilege
13 or immunity.

14 Section 14. The Division of Insurance shall assess each insurer holding a certificate of
15 authority to transact the business of insurance in this state a fee of two hundred fifty dollars to
16 be remitted and payable to the Division of Insurance to be deposited in a separate account,
17 entitled the insurance fraud prevention unit fund. The Division of Insurance may not make an
18 assessment until the fund falls below one hundred thousand dollars. If the fund falls below one
19 hundred thousand dollars, the Division of Insurance shall notify each insurer of its payment
20 obligation. Upon receipt of the notice of assessment from the Division of Insurance each insurer
21 shall immediately make a two hundred fifty dollar payment to the fund. Failure of an insurer to
22 submit full payment of the assessment to the division within twenty days of receipt of the notice
23 of assessment, unless good cause is shown, may be grounds for administrative action to be taken
24 by the division against an insurer.

25 Section 15. The provisions of this Act do not:

- 1 (1) Preempt the authority or relieve the duty of any other law enforcement agency to
2 investigate, examine, and prosecute suspected violations of law;
- 3 (2) Prevent or prohibit a person from voluntarily disclosing any information concerning
4 insurance fraud to any law enforcement agency;
- 5 (3) Limit any of the powers granted elsewhere by the laws of this state to the director of
6 insurance or the Division of Insurance to investigate and examine possible violations
7 of law and to take appropriate action; or
- 8 (4) Limit any of the powers granted elsewhere by the laws of this state to any state
9 agency to investigate and examine possible violations of law and to take appropriate
10 action.

11 Section 16. The Division of Insurance shall annually report to the Legislature concerning the
12 activities of the insurance fraud prevention unit including the number and type of cases
13 investigated, the outcome of such investigations, and costs and expenditures incurred during such
14 investigations.

15 Section 17. Each authorized insurer shall, three years after the effective date of this Act,
16 reevaluate its rates based upon the impact that fraud prevention has had upon its rates,
17 considering the impact of this Act and the impact of any fraud prevention units of the insurer or
18 other fraud prevention organization and appropriate accumulated data and, if justified by the
19 insurer's actuary, reduce its rates.

20 Section 18. That § 58-33-37 be amended to read as follows:

21 58-33-37. Any person who knowingly makes any false or fraudulent statement or
22 representation with reference to any application for insurance ~~shall be~~ is guilty of a Class 1
23 misdemeanor. Any person who knowingly presents or causes to be presented a false or
24 fraudulent claim for the purpose of obtaining any money or benefit, or who submits any proof
25 in support of such a claim for the payment of a loss upon a contract of insurance, or who

1 prepares, makes, or subscribes a false or fraudulent account, certificate, affidavit or proof of loss,
2 or other document or writing, with intent that the same may be presented or used in support of
3 such a claim, ~~shall be~~ is guilty of a Class 1 misdemeanor if such claim is for an amount of ~~two~~
4 five hundred dollars or less, and ~~shall be~~ is guilty of a Class 4 felony if such claim exceeds ~~two~~
5 five hundred dollars.

1 **BILL HISTORY**

2 1/20/99 First read in Senate and referred to Commerce. S.J. 130

3 1/26/99 Scheduled for Committee hearing on this date.

4 1/28/99 Scheduled for Committee hearing on this date.

5 1/28/99 Commerce Do Pass Amended, Passed, AYES 6, NAYS 1. S.J. 249

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

336C0034

SENATE JUDICIARY COMMITTEE ENGROSSED NO. **SB102** - 2/4/99

Introduced by: Senators Brosz, Albers, Lawler, and Moore and Representatives Broderick, Fryslie, Konold, and Solum

1 FOR AN ACT ENTITLED, An Act to require a criminal history check for certain employees or
2 potential employees of assisted living centers.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Except as otherwise provided in this Act, before any assisted living center that is
5 required to be licensed pursuant to § 34-12-2 makes an offer to employ or to contract with a
6 nonlicensed person to provide nursing care, health-related services, medic services, or supportive
7 assistance to any individual, the assisted living center shall request that a criminal history check
8 be conducted on the nonlicensed person. If the assisted living center is part of a larger complex
9 of buildings, the requirement of a criminal history check applies only to an offer of employment
10 or contract made to a nonlicensed person who will work primarily in the immediate boundaries
11 of assisted living center.

12 Section 2. The assisted living center may obtain the criminal history record maintained by the
13 Division of Criminal Investigation of a nonlicensed person offering to provide nursing care,
14 health-related services, or supportive services to any individual. The assisted living center shall
15 request the division to conduct a criminal history check on the nonlicensed person and shall
16 provide the division any relevant information required by the division to conduct the check.

1 Section 3. The assisted living center may make an offer of temporary employment to a
2 nonlicensed person pending the results of the criminal history check on the person required in
3 section 1 of this Act. In such instances, the assisted living center shall provide to the Division of
4 Criminal Investigation the name and relevant information relating to the person within seventy-
5 two hours after the date the person accepts temporary employment.

6 Section 4. The Division of Criminal Investigation shall provide to the assisted living center
7 the criminal history records of any person being investigated.

8 Section 5. Any assisted living center shall inform each applicant for employment or each
9 prospective contract provider that the assisted living center is required to obtain a criminal
10 history record before making an offer of employment to, or contracting with, a nonlicensed
11 person.

12 Section 6. If the results of a criminal history check reveal that any nonlicensed person has
13 been convicted of any of the following offenses, the assisted living center may not hire or
14 contract with the person:

- 15 (1) Homicide;
- 16 (2) Assault;
- 17 (3) Rape and sexual contact;
- 18 (4) Kidnapping and false imprisonment;
- 19 (5) Arson;
- 20 (6) Criminal damage to property;
- 21 (7) Burglary;
- 22 (8) Robbery;
- 23 (9) Sexual offenses; or
- 24 (10) Abuse or neglect of disabled adults.

25 Section 7. If the results of a criminal history check reveal that a nonlicensed person hired on

1 a temporary basis or any other person who is an employee has been convicted of any of the
2 offenses listed in section 6 of this Act, the assisted living center shall immediately terminate the
3 person's employment.

4 Section 8. The provisions of sections 6 and 7 of this Act do not apply to an employee or
5 contract provider who has been employed in the assisted living center for twenty-four months
6 of the preceding thirty-six months or a person who has received a pardon of any relevant
7 conviction. The assisted living center may waive the provisions of sections 6 and 7 of this Act
8 for mitigating circumstances, which include:

- 9 (1) Age at which the crime was committed;
- 10 (2) Circumstances surrounding the crime;
- 11 (3) Length of time since the conviction;
- 12 (4) Criminal history since the conviction;
- 13 (5) Work history;
- 14 (6) Current employment references;
- 15 (7) Character references;
- 16 (8) Nurse aide registry records;
- 17 (9) Other evidence demonstrating the ability of the person to perform the employment
18 responsibilities competently and that the person does not pose a threat to the health
19 or safety of patients or clients.

20 The granting of a waiver does not create an obligation upon the assisted living center to offer
21 permanent employment to the person.

22 Section 9. All criminal history records received by an assisted living center pursuant to this
23 Act are confidential and are restricted to the exclusive use of the Department of Health and the
24 assisted living center requesting the information. Except by court order or with the written
25 consent of the person being investigated, the records or information obtained from or regarding

1 the records may not be released or otherwise disclosed to any other person or agency. The
2 records shall be destroyed after one year from the termination of employment of the person to
3 whom such records relate. However, upon receipt of written consent by an applicant for
4 employment with a health provider, the assisted living center in receipt of a criminal history
5 check may send a copy to the employer seeking the referral.

6 Section 10. The Department of Health shall review the employment files of any facility or
7 agency required to obtain criminal history records under this Act to ensure such facilities are in
8 compliance with the provisions of this Act.

9 Section 11. No nonlicensed person hired on a temporary basis and terminated pursuant to
10 the provisions of this Act is eligible for unemployment compensation.

1 **BILL HISTORY**

2 1/22/99 First read in Senate and referred to Judiciary. S.J. 160

3 1/25/99 Scheduled for Committee hearing on this date.

4 1/25/99 Judiciary Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 173

5 1/26/99 Referred to Judiciary. S.J. 193

6 1/29/99 Scheduled for Committee hearing on this date.

7 2/3/99 Judiciary Do Pass Amended, Passed, AYES 4, NAYS 0. S.J. 313

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

475C0480

SENATE JUDICIARY COMMITTEE ENGROSSED NO. **SB131** - 2/9/99

Introduced by: Senators Whiting, Albers, Brosz, Drake, Flowers, Madden, and Staggers and
Representatives Hennies, Duniphan, Fitzgerald, McCoy, Napoli, and Wilson

1 FOR AN ACT ENTITLED, An Act to revise the rate of reimbursement to the county for certain
2 parole violator detention expenses.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 24-15-28 be amended to read as follows:

5 24-15-28. The state shall reimburse any county of this state for expenses the county incurs
6 for the detention of a parolee pursuant to §§ 24-15-19 and 24-15-21. The reimbursement may
7 not exceed ~~forty~~ fifty dollars per day. Upon receipt of the bill, the state shall make reimbursement
8 within thirty days. No county may be reimbursed by the state for costs incurred from detaining
9 a parolee held for criminal charges unrelated to the parolee's current conviction and sentence.

1 **BILL HISTORY**

2 1/25/99 First read in Senate and referred to Judiciary. S.J. 179

3 2/5/99 Scheduled for Committee hearing on this date.

4 2/5/99 Judiciary Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 364

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

464C0469

SENATE STATE AFFAIRS COMMITTEE

ENGROSSED NO. **SB149** - 2/9/99

Introduced by: Senators Halverson, Dennert, Dunn (Jim), Everist, Moore, Shoener, and Symens and Representatives Cutler, Broderick, Chicoine, and Jaspers

1 FOR AN ACT ENTITLED, An Act to require the establishment of a cost recovery method or
2 mechanism for telecommunication companies to recover the cost of certain mandated
3 services.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 Any decision, order, or rule by any agency which requires the provision of
8 telecommunications services, in excess of voice grade local exchange service, shall establish a
9 cost recovery method or mechanism to ensure that the telecommunications company will be able
10 to recover the cost of the investment or expense in a period not to exceed five years, from the
11 services that result from such mandate.

1 **BILL HISTORY**

2 1/26/99 First read in Senate and referred to State Affairs. S.J. 196

3 2/8/99 Scheduled for Committee hearing on this date.

4 2/8/99 State Affairs Do Pass Amended, Passed, AYES 5, NAYS 3. S.J. 362

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

993C0555

SENATE STATE AFFAIRS COMMITTEE

ENGROSSED NO. **SB156** - 2/4/99

Introduced by: Senators Hainje, Drake, Lawler, and Paisley and Representatives Cutler,
Eccarius, and Lucas

1 FOR AN ACT ENTITLED, An Act to restrict the placement of automated teller machines in the
2 proximity of video lottery terminals.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 42-7A-37.1 be amended to read as follows:

5 42-7A-37.1. A business licensed pursuant to subdivisions 35-4-2(12) and (16) may not be
6 a licensed establishment for video lottery placement pursuant to subdivision 42-7A-1(6) unless
7 it is a bar or lounge. For the purposes of this section, a bar or lounge is an enterprise primarily
8 maintained and operated for the selling, dispensing and consumption of alcoholic beverages on
9 the premises and may also include the sale and service of food. A bar or lounge may be physically
10 connected to another enterprise within the same building, which enterprise may be owned or
11 operated by the same person. There may be interior access between a bar or lounge and a
12 connected enterprise. However, there shall be a floor to ceiling opaque wall separation between
13 the two enterprises. A separation wall may be constructed to provide visual and physical access
14 for employees from areas in the building not open to the public. The bar or lounge shall have a
15 separate entrance and exit. A separate entrance and exit is not required if entrance to the bar may
16 only be obtained from the other distinct enterprise and the public may not enter the other

1 enterprise by first passing through the bar or lounge. No automated teller machine or remote
2 service unit, as defined in § 51A-8-1, may be located in the bar or lounge. All video lottery
3 machines shall be adequately monitored during business hours. Adequate monitoring shall be
4 accomplished by the personal presence of an employee or by an employee using video cameras
5 or mirrors and periodic inspections of the bar or lounge. No new license may be issued to any
6 establishment after July 1, 1992, unless such establishment complies with this section. No license
7 may be renewed to any establishment after July 1, 1993, unless such establishment complies with
8 this section.

1 **BILL HISTORY**

2 1/26/99 First read in Senate and referred to State Affairs. S.J. 198

3 2/3/99 Scheduled for Committee hearing on this date.

4 2/3/99 State Affairs Do Pass Amended, Passed, AYES 6, NAYS 3. S.J. 312

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

581C0505

SENATE TRANSPORTATION COMMITTEE

ENGROSSED NO. **SB172** - 2/5/99

Introduced by: Senators Vitter, Drake, Flowers, Hutmacher, and Rounds and Representatives Wetz, Cutler, Diedrich (Larry), Sutton (Duane), and Volesky

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the disclosure of
2 damage on motor vehicles.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 32-3-51.7 be amended to read as follows:

5 32-3-51.7. Each certificate of title issued by the department shall contain the following
6 phrase: South Dakota state law requires the disclosure of damage on motor vehicles. This
7 information is available upon written request from the Department of Revenue, Division of
8 Motor Vehicles. Each certificate of title shall also contain on its front a statement as to whether
9 previous damage disclosure statements indicate the motor vehicle had been damaged at one time
10 in excess of ~~two~~ five thousand dollars as provided by § 32-3-51.8.

11 Section 2. That § 32-3-51.8 be amended to read as follows:

12 32-3-51.8. Upon the sale, transfer, or trade-in of a motor vehicle, or if licensing a motor
13 vehicle in South Dakota which is titled in another state or jurisdiction, the seller, transferor,
14 trader, or person wishing to license in South Dakota the motor vehicle which is titled in another
15 state or jurisdiction shall submit an accurately completed damage disclosure statement when
16 applying for a certificate of title pursuant to § 32-3-18. The completed damage disclosure

statement may be on the back of the certificate of title or on a separate document that has been approved for use by the department. Except as otherwise provided by this section, no certificate of title may be issued by the department unless the damage disclosure statement accompanies the application. It is a Class 1 misdemeanor to intentionally falsify any information on the damage disclosure statement. No person or dealer is liable to a subsequent owner of a vehicle because a prior owner of the vehicle failed to disclose that the vehicle had previously been damaged and repaired. This section does not apply to motor vehicles more than nine model years old or with a gross vehicle weight rating of more than sixteen thousand pounds and does not apply if a rebuilt title or junking certificate is sought.

This section does apply to all other motor vehicles, but only damage in excess of ~~two~~ five thousand dollars shall be disclosed in the statement. If the motor vehicle has incurred damages more than once, only those damages which occurred at one time would be considered in determining whether the damages exceeded ~~two~~ five thousand dollars.

Section 3. That § 32-3-51.14 be amended to read as follows:

32-3-51.14. The department shall prescribe, pursuant to chapter 1-26, the format for the damage disclosure statement provided by § 32-3-51.8. An area for a damage disclosure statement shall appear on the back of each certificate of title issued by the department. The department may also approve separate documents on which a damage disclosure statement may be submitted. The damage disclosure statement form shall indicate whether the motor vehicle has been damaged such that it cost more than ~~two~~ five thousand dollars to repair to its predamaged condition and any other damage information the department deems appropriate. If a separate document from the certificate of title contains the damage disclosure statement, the document shall also require the following information: year, make, model, and vehicle identification number of the motor vehicle.

Section 4. That § 32-3-51.15 be amended to read as follows:

1 32-3-51.15. The dollar amount of damage to a motor vehicle required to be disclosed
2 pursuant to § 32-3-51.8 shall include the costs necessary to return the damaged motor vehicle
3 to its predamaged condition. Such costs include parts, labor, paint, and frame work done on the
4 damaged motor vehicle. If the retail value of labor has not been determined by a purchase in the
5 ordinary course of business (for example, the labor is performed by the owner of the vehicle),
6 the retail value of the labor is presumed to be the product of the repair time, as provided in a
7 generally accepted autobody repair flat rate manual, multiplied by thirty-five dollars.

1 **BILL HISTORY**

2 1/27/99 First read in Senate and referred to Transportation. S.J. 215

3 2/2/99 Scheduled for Committee hearing on this date.

4 2/4/99 Scheduled for Committee hearing on this date.

5 2/4/99 Transportation Do Pass Amended, Passed, AYES 5, NAYS 2. S.J. 333

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

543C0740

SENATE JUDICIARY COMMITTEE ENGROSSED NO. **SB176** - 2/9/99

Introduced by: Senator Whiting and Representative Jaspers

1 FOR AN ACT ENTITLED, An Act to restrict the possession of firearms on certain off-road
2 vehicles.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 32-20-6.6 be amended to read as follows:

5 32-20-6.6. No person, other than a law enforcement officer or conservation officer, or any
6 person on the person's own land or land leased by the person which is not located within a
7 firearms big game hunting unit during an open season, may operate or ride on any motorcycle
8 or off-road vehicle with any firearm in the person's possession unless the firearm is completely
9 unloaded and within a carrying case which encloses the entire firearm. However, this section
10 does not apply to any person who is carrying a pistol and possesses a permit to carry a concealed
11 pistol issued pursuant to chapter 23-7. This section shall be enforced by all law enforcement
12 officers including conservation officers, notwithstanding the provisions of § 41-15-10.1. A
13 violation of this section is a Class 2 misdemeanor.

1 **BILL HISTORY**

2 1/27/99 First read in Senate and referred to Judiciary. S.J. 216

3 2/3/99 Scheduled for Committee hearing on this date.

4 2/8/99 Scheduled for Committee hearing on this date.

5 2/8/99 Judiciary Do Pass Amended, Passed, AYES 6, NAYS 0. S.J. 367

6 2/8/99 Judiciary Place on Consent Calendar.

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

770C0787

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB186** - 2/9/99

this bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsors.

Introduced by: Senators Everist and Halverson and Representatives Peterson, Brooks, Brown (Richard), Chicoine, Fiegen, and Solum

1 FOR AN ACT ENTITLED, An Act to limit the liability of certain persons for year 2000
2 litigation.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Terms used in this Act mean:

5 (1) "Computer," any electronic device or group, network, or other combination of
6 devices using silicon chips, embedded chips, or other electronic systems or processes
7 to store, process, or manipulate information whether independently or in connection
8 with other electronic devices or other machinery or any other device included under
9 § 43-43B-2;

10 (2) "Computer software," any set of instructions, computations, or other data stored or
11 recorded on an electronic or other medium that causes or allows a computer to
12 perform specific functions, calculations, or other activities or any other device
13 included under § 43-43B-2;

14 (3) "Year 2000 disruption," any malfunction or failure of a computer or computer
15 software due to an inability or failure to properly perform operations, computations,

1 or other functions or to properly store, display, transmit, or otherwise manipulate data
2 as a result of an inability or failure to recognize or process dates using the year 2000
3 or any subsequent year;

4 (4) "Year 2000 compliance," reasonable consultation, analysis, testing, or contingency
5 planning in conformance with generally accepted computer or computer software
6 standards that indicates that any computer or computer software will not suffer any
7 Year 2000 disruption; or installation of any new computer or computer software or
8 any upgrade to any computer or computer software which is warranted, guaranteed,
9 or otherwise marketed to comply with generally accepted design standards to avoid
10 Year 2000 disruption.

11 Section 2. In any lawsuit based on any Year 2000 disruption, evidence of Year 2000
12 compliance creates a rebuttable presumption that any injury based on a Year 2000 disruption was
13 not caused by negligence of the defendant or that, in any action based on breach of contract
14 resulting from a Year 2000 disruption, failure to perform under the contract was not the fault of
15 the defendant.

16 Section 3. Nothing in this Act abrogates or limits rights under § 57A-2-318.

1 **BILL HISTORY**

2 1/27/99 First read in Senate and referred to State Affairs. S.J. 218

3 2/1/99 Scheduled for Committee hearing on this date.

4 2/5/99 Scheduled for Committee hearing on this date.

5 2/8/99 State Affairs Hog Housed.

6 2/8/99 Scheduled for Committee hearing on this date.

7 2/8/99 State Affairs Do Pass Amended, Passed, AYES 8, NAYS 0. S.J. 362

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

385C0572

SENATE JUDICIARY COMMITTEE ENGROSSED NO. **SB188** - 2/4/99

Introduced by: Senators Lange, Drake, Moore, Staggers, and Valandra and Representatives Koetzle, Hagen, Haley, Jaspers, Kooistra, Lucas, Solum, Weber, and Wilson

1 FOR AN ACT ENTITLED, An Act to limit the application of capital punishment.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That chapter 23A-7A be amended by adding thereto a NEW SECTION to read
4 as follows:

5 Notwithstanding any other provisions of this chapter, no judge may impose the death penalty
6 against any defendant if:

7 (1) The defendant was less than sixteen years of age at the time when the offense
8 occurred; or

9 (2) The defendant was mentally retarded within the meaning of § 27B-1-1 at the time
10 when the offense occurred.

1 **BILL HISTORY**

2 1/28/99 First read in Senate and referred to Judiciary. S.J. 232

3 2/3/99 Scheduled for Committee hearing on this date.

4 2/3/99 Judiciary Do Pass Amended, Passed, AYES 5, NAYS 2. S.J. 314

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

607C0723

SENATE COMMERCE COMMITTEE

ENGROSSED NO. **SB194** - 2/5/99

Introduced by: Senators Flowers, Dennert, Drake, Hutmacher, Kloucek, and Symens and
Representatives McNenny, Cerny, Chicoine, Frysliie, Jaspers, and Weber

1 FOR AN ACT ENTITLED, An Act to provide certain restrictions for dealership contracts for
2 agricultural construction equipment.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Terms used in this Act mean:

- 5 (1) "Dealer," any person who receives agricultural or construction equipment from a
6 manufacturer under a dealership contract and who offers and sells the agricultural or
7 construction equipment to the general public. The term, dealer, does not include a
8 single-line dealer primarily engaged in the retail sale and service of off-road
9 construction and earthmoving equipment;
- 10 (2) "Dealership contract," a written agreement or contract between a manufacturer and
11 dealer which fixes the legal rights and liabilities of the parties to such agreement or
12 contract;
- 13 (3) "Manufacturer," any person engaged in the manufacturing or distribution of
14 agricultural or construction equipment including any person who acts for the
15 manufacturer;
- 16 (4) "Single-line dealer," any person that has purchased seventy-five percent or more of

1 the dealer's total new product inventory from a single manufacturer under agreements
2 with that manufacturer and has a total annual average sales volume for the three
3 previous years with that single manufacturer in excess of fifty million dollars for the
4 territory for which that dealer is responsible.

5 Section 2. The following circumstances are not cause for the termination or discontinuance
6 of a dealership contract, nor for entering into a dealership contract for the establishment of an
7 additional dealership in a community for the same line-make:

- 8 (1) The change of executive management or ownership of the dealer, unless the
9 manufacturer can show that the change would be detrimental to the representation or
10 reputation of the manufacturer's product;
- 11 (2) Refusal by the dealer to purchase or accept delivery of any agricultural or
12 construction equipment, parts, accessories, or any other commodity or service not
13 ordered by the dealer;
- 14 (3) The sole fact that the manufacturer desires further penetration of the market;
- 15 (4) The fact that the dealer owns, has an investment in, participates in the management
16 of, or holds a dealership contract for the sale of another line-make of agricultural or
17 construction equipment, or that the dealer has established another line-make of
18 agricultural or construction equipment in the same dealership facilities as those of the
19 manufacturer, if the dealer maintains a reasonable line of credit for each line-make of
20 agricultural or construction equipment; or
- 21 (5) Refusal by the dealer to participate in any advertising campaign or contest or purchase
22 any promotional materials, display devices, or display decoration or materials which
23 are at the expense of the dealer.

24 It is unlawful for any manufacturer to terminate or discontinue a dealership contract, or enter
25 into additional contracts under the circumstances described in subdivisions (1) to (5), inclusive.

1 Section 3. No manufacturer may require a dealer to agree to the inclusion of a term or
2 condition in a dealership contract, or in any lease or agreement ancillary or collateral to a
3 dealership contract, as a condition to the offer, grant, or renewal of such dealership contract,
4 lease, or agreement, that:

- 5 (1) Requires the dealer to waive trial by jury in cases involving the manufacturer;
- 6 (2) Specifies the jurisdictions, venues, or tribunals in which disputes arising with respect
7 to the dealership contract, lease, or agreement shall or may not be submitted for
8 resolution or otherwise prevents a dealer from bringing an action in a particular forum
9 otherwise available under the law;
- 10 (3) Requires that disputes between the manufacturer and dealer be submitted to
11 arbitration or to any other binding alternate dispute resolution procedure. However,
12 any dealership contract, lease, or agreement may authorize the submission of a dispute
13 to arbitration or to binding alternate dispute resolution if the manufacturer and dealer
14 voluntarily agree to submit the dispute to arbitration or binding alternate dispute
15 resolution at the time the dispute arises; or
- 16 (4) Requires a dealer to pay the attorney fees of a manufacturer.

17 This section does not apply to any agreement that has as its main objective the lease or sale
18 of real property.

1 **BILL HISTORY**

2 1/28/99 First read in Senate and referred to Commerce. S.J. 233

3 2/2/99 Scheduled for Committee hearing on this date.

4 2/4/99 Scheduled for Committee hearing on this date.

5 2/4/99 Commerce Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 331

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

660C0733

SENATE HEALTH AND HUMAN SERVICES COMMITTEE ENGROSSED NO. **SB198** - 2/9/99

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsors.

Introduced by: Senators Reedy, Bogue, Dunn (Rebecca), and Lawler and Representatives Fitzgerald, Chicoine, Davis, Engbrecht, Koskan, Lockner, Patterson, and Solum

1 FOR AN ACT ENTITLED, An Act to limit the practice of psychotherapy to certain persons.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. No person may represent himself or herself as a psychotherapist, or engage in the
4 practice of, or attempt to practice, psychotherapy unless licensed as one of the following:

5 (1) A physician who is licensed pursuant to chapter 36-4;

6 (2) A psychologist who is licensed pursuant to chapter 36-27A;

7 (3) A licensed psychiatric nurse with a master's degree from an accredited education
8 program and has two years of supervised clinical experience in a mental health setting;

9 (4) A licensed social worker with a master's degree from an accredited training program
10 and has two years of supervised clinical experience in a mental health setting;

11 (5) A counselor who is licensed pursuant to chapter 36-32 as a licensed professional
12 counselor -- mental health;

13 (6) A marriage and family therapist who is licensed pursuant to chapter 36-33;

14 (7) A physician's assistant who is licensed pursuant to chapter 36-4A and has two years

- 1 of supervised clinical experience in a mental health setting;
- 2 (8) A nurse practitioner who is licensed pursuant to chapter 36-9A and has two years of
- 3 supervised clinical experience in a mental health setting.
- 4 A violation of this section is a Class 2 misdemeanor.

1 **BILL HISTORY**

2 1/28/99 First read in Senate and referred to Health and Human Services. S.J. 233

3 2/3/99 Scheduled for Committee hearing on this date.

4 2/5/99 Scheduled for Committee hearing on this date.

5 2/8/99 Health and Human Services Hog Housed.

6 2/8/99 Scheduled for Committee hearing on this date.

7 2/8/99 Health and Human Services Do Pass Amended, Passed, AYES 5, NAYS 0. S.J. 367

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

419C0698

SENATE JUDICIARY COMMITTEE ENGROSSED NO. **SB200** - 2/9/99

Introduced by: Senators Rounds and Brosz and Representatives Brown (Richard) and Hennies

1 FOR AN ACT ENTITLED, An Act to increase the penalty for possessing certain drugs near
2 schools and certain other youth-oriented facilities and to repeal certain minimum sentencing
3 provisions relating thereto.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 22-42-19 be amended to read as follows:

6 22-42-19. Any person who commits a violation of § 22-42-2, 22-42-3, ~~or 22-42-4, or 22-42-~~
7 5, or a felony violation of § 22-42-6 or 22-42-7, if such activity has taken place:

8 (1) In, on, or within one thousand feet of real property comprising a public or private
9 elementary or secondary school or a playground; or

10 (2) In, on, or within five hundred feet of real property comprising a public or private
11 youth center, public swimming pool, or video arcade facility;

12 is guilty of a Class 4 felony. ~~The sentence imposed for a conviction under this section carries a~~
13 ~~minimum sentence of imprisonment in the state penitentiary of five years. Any sentence imposed~~
14 ~~under this section shall be consecutive to any other sentence imposed for the principal felony.~~
15 ~~The court may not place on probation, suspend the execution of the sentence, or suspend the~~
16 ~~imposition of the sentence of any person convicted of a violation of this section. However, the~~

1 ~~sentencing court may impose a sentence other than that specified in this section if the court finds~~
2 ~~that mitigating circumstances exist which require a departure from the mandatory sentence~~
3 ~~provided for in this section. The court's finding of mitigating circumstances allowed by this~~
4 ~~section and the factual basis relied upon by the court shall be in writing.~~

5 It is not a defense to the provisions of this section that the defendant did not know the
6 distance involved. It is not a defense to the provisions of this section that school was not in
7 session.

1 **BILL HISTORY**

2 1/28/99 First read in Senate and referred to Judiciary. S.J. 234

3 2/1/99 Scheduled for Committee hearing on this date.

4 2/8/99 Scheduled for Committee hearing on this date.

5 2/8/99 Judiciary Do Pass Amended, Passed, AYES 5, NAYS 1. S.J. 366

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

880C0863

SENATE JUDICIARY COMMITTEE ENGROSSED NO. **SB228** - 2/9/99

Introduced by: Senator Vitter

1 FOR AN ACT ENTITLED, An Act to increase the penalty for certain assaults in jails.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 22-18-29 be amended to read as follows:

4 22-18-29. Any person confined in a county or municipal jail ~~or in a juvenile detention facility~~
5 who intentionally throws, smears, or otherwise causes blood, emesis, mucus, semen, excrement,
6 or human waste to come in contact with a county or municipal jail ~~or juvenile detention facility~~
7 employee, or visitor, or volunteer authorized by the county or municipal jail ~~or juvenile detention~~
8 facility, or person under contract assigned to the county or municipal jail ~~or juvenile detention~~
9 facility is guilty of a ~~Class 2 misdemeanor~~ Class 6 felony.

10 Section 2. That chapter 22-18 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 Any juvenile confined in a juvenile detention facility who intentionally throws, smears, or
13 otherwise causes blood, emesis, mucus, semen, excrement, or human waste to come in contact
14 with a juvenile detention facility employee, or visitor, or volunteer authorized by the juvenile
15 detention facility, or person under contract assigned to the juvenile detention facility is guilty of
16 a Class 2 misdemeanor.

1 **BILL HISTORY**

2 2/1/99 First read in Senate and referred to Judiciary. S.J. 277

3 2/5/99 Scheduled for Committee hearing on this date.

4 2/5/99 Judiciary Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 365